

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

Plaintiff [s],

V

JOSE RAMON HERNADEZ-RODRIGUEZ

Defendant [s],

**Case No.: 97-CR-228 (PG)**

**MOTION FOR APPOINTMENT OF NEW DISTRICT JUDGE**

**COMES NOW**, defendant JOSE RAMON HERNADEZ-RODRIGUEZ –through counsel- and pursuant to Local Rule 7.1; Local Rule 112, Fed.R.Crm.P 12, the Sixth Amendment to the U.S. Constitution, and pursuant to the publish opinion and mandate of the First Circuit Court of Appeals under case No.05-1121 for the appointment of a new District Judge and commencement of appropriate proceedings for redress of the issues before this Court. In support the defendant[s] state[s ] as follows:

1. The First Circuit Court of Appeals rendered an opinion and mandate to the district court for appointment of a New District Judge and the matter was docket on #244 to wit:

04/18/2006	<a href="#">244</a>	JUDGMENT of USCA (certified copy) as to Jose Ramon Hernandez; REMANDED. The matter is to be assigned to a new DC judge. (xi, ) (Entered: 04/18/2006)
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2. The First Circuit Court had granted the U.S. Government until May 20<sup>th</sup> 2006 to submit a petition for en banc hearing.
3. The U.S. Government has not filed a petition for en banc hearing and to this writing the appearing counsel as counsel for defendant has not received a copy of any petition for en banc hearing [see Exhibit A].
4. A copy of the First Circuit Docket reveals that up until the filing of the instant motion May 30, 2006 the Government had not filed a petition nor sought leave to extend the time under which to submit a petition for en banc hearing.
5. The time to file for an en banc hearing has lapsed and there is no further applicable rule of criminal procedure upon which the Government may petition further for en banc and delay the proceedings any further.

**WHEREFORE** the defendant Jose Ramon Hernandez respectfully prays to this Honorable Court to assign the case to a new District Judge and protect the defendants rights to due process of law.

Respectfully submitted,  
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### **CERTIFICATE OF SERVICE**

I certify that on this day May 30, 2006 the undersigned certifies that a copy of the instant sealed motion for continuance of trial filed using the court's CM/ECF electronic filing system that will send a copy to all counsel of record.

S./Lorenzo J. Palomares, Esq.